

LIDDELL, SAPP & ZIVLEY

ATTORNEYS

TEXAS COMMERCE TOWER

HOUSTON, TEXAS 77002

(713) 226-1200

TELEX 76-2616

TELECOPIER (713) 223-3717

AUSTIN OFFICE  
301 CONGRESS AVENUE  
SUITE 1400  
AUSTIN, TEXAS 78701  
(512) 320-4111  
TELECOPIER (512) 320-4161

RECORDATION NO. 9723-F Filed 1425

JUL 23 1987 - 3 49 PM

INTERSTATE COMMERCE COMMISSION

DALLAS OFFICE  
1500 SAN JACINTO TOWER  
DALLAS, TEXAS 75201  
(214) 880-0100  
TELECOPIER (214) 880-0025

July 22, 1987

7-204A094

BY FEDERAL EXPRESS

Ms. Norita R. McGee  
Secretary  
Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423

No.   
Date JUL 23 1987  
Fee \$ 10.00  
ICC Washington, D.C.

Re: Fifth Amendment to Conditional Sale Agreement  
between General Motors Corporation (Electro-  
Motive Division) and Missouri-Kansas-Texas  
Railroad Company dated September 22, 1978;  
assigned to Texas Commerce Bank National  
Association

Dear Ms. McGee:

I have enclosed an original and three (3) counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Fifth Amendment to Conditional Sale Agreement ("Fifth Amendment"), a secondary document, dated effective as of May 1, 1987.

The primary document to which the Fifth Amendment is connected is a Conditional Sale Agreement recorded under Recordation No. 9723.

The names and addresses of the parties to the Fifth Amendment are as follows:

Purchaser:

Missouri-Kansas-Texas Railroad  
Company  
701 Commerce Street  
Dallas, Texas 75202

RECEIVED BY MOTOR  
JUL 23 3 29 PM '87  
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100-140001

Ms. Norita R. McGee  
July 22, 1987  
Page 2

Seller (Assignee):

Texas Commerce Bank National  
Association  
P. O. Box 2558  
Houston, Texas 77001.

A description of the equipment covered by the Fifth Amendment follows:

four (4) Model SD40-2 diesel electric locomotives with  
300 HP each, bearing MKT's railroad numbers 607, 608,  
609 and 610.

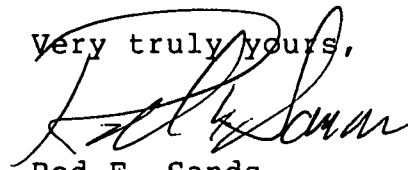
A cashier's check is enclosed which covers the statutory recording fee. Please return the original Fifth Amendment and any extra copies stamped with the appropriate recording information which will not be needed by the Commission to the undersigned.

A short summary of the Fifth Amendment to appear in the Index follows:

Fifth Amendment to Conditional Sale Agreement originally executed by and between Missouri-Kansas-Texas Railroad Company and General Motors Corporation (Electro-Motive Division) which assigned same to Texas Commerce Bank National Association, covering four (4) Model SD40-2 diesel electric locomotives with 300 HP each, bearing MKT's railroad numbers 607, 608, 609 and 610.

I certify that I have knowledge of the foregoing.

Very truly yours,



Rod E. Sands  
For the Firm

RES:11  
Enclosures - a/s

xc: Ms. Kelly Enos-Blumberg  
Texas Commerce Bank  
National Association  
712 Main Street  
Houston, Texas 77002

# Interstate Commerce Commission

Washington, D.C. 20423

7/24/87

OFFICE OF THE SECRETARY

MS. KELLY ENOS-BLUMBERG  
TEXAS COMMERCE BANK  
NATIONAL ASSOCIATION  
812 MAIN STREET  
HOUSTON, TEXAS 77002

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/23/87 at 3:40 PM, and assigned recordation number(s) - 9723-F, I2248-E, I0662-E, I284I-D, I2772-D, I2868-D, I3603-D, 9628-F, I0797-F, I2076-F, I0030-D, I0399-E, I0207-F and 8380-C

Sincerely yours,

*Norita L. McGee*  
Secretary

Enclosure(s)



# First of Fort Worth

The First National Bank  
of Fort Worth  
One Burnett Plaza  
Fort Worth, Texas 76102

Commercial Banking  
Division  
817/390-6161

September 28, 1978

8-272A082

SEP 29 1978

Date .....

Fee \$ 50

CC Washington, D. C.

9724

RECORDATION NO. 9724

SEP 29 1978 12 00 PM

Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

INTERSTATE COMMERCE COMMISSION

Gentlemen:

We enclose herewith for filing original and two copies of a Security Agreement from Jackson E. Cagle, M. D., 800 Fifth Avenue, Fort Worth, Texas 76104, debtor to The First National Bank of Fort Worth, Post Office Box 2260, Fort Worth, Texas 76113, secured party covering:

Six (6) 4,750 cubic foot capacity 100 ton covered railroad hopper cars bearing the numbers PLMX 10373, PLMX 10445, PLMX 10446, PLMX 10375, PLMX 10449 and PLMX 10450; together with all rights of Debtor in and to any and all lease or rental agreements covering such equipment. All substitutes and replacements for, accessions, attachments and other additions to the above property. Together with all accounts receivable and contract rights relating to such cars.

We enclose a check in the amount of \$50.00 for the filing fee.

Sincerely,

*George M. Bradford*  
George M. Bradford  
Assistant Vice President

RECEIVED

SEP 29 11 52 AM '78

I.C.C.  
FEE OPERATION BR.

MB:pv

Enclosures

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

**9/29/78**

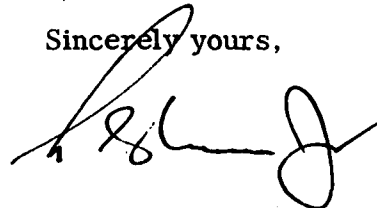
**OFFICE OF THE SECRETARY**

**George M. Bradford**  
**Assistant Vice President**  
**The First National Bank Of Fort Worth**  
**One Burnett Plaza**  
**Fort Worth, Texas 76102**

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,  
49 U.S.C. 20(c), on **9/29/78** at **12:00pm**,  
and assigned recordation number(s) **9724**

Sincerely yours,



**H.G. Homme, Jr.,**  
**Acting Secretary**

Enclosure(s)

**SE-30-T**  
**(2/78)**

SEP 29 1978 12 00 PM

Number                     

INTERSTATE COMMERCE COMMISSION

Advanced  
Interest  
Total

\$ 159,488.00  
\$ 81,781.91  
\$ 241,269.91

THE FIRST NATIONAL BANK OF FORT WORTH  
RAILROAD HOPPER CARS - SECURITY AGREEMENT

A. PARTIES

1. Debtor Jackson E. Cagle, M.D.
2. Address 800 Fifth Avenue, Fort Worth, Texas 76104
3. Bank: The First National Bank of Fort Worth.
4. Address: Post Office Box 2260, Fort Worth, Tarrant County, Texas, 76101

B. AGREEMENT

Subject to the applicable terms of this security agreement, Debtor grants to Bank a security interest in the collateral to secure the payment of the obligation.

C. OBLIGATION

1. The following is the obligation secured by this agreement:
  - a. Note executed by Jackson E. Cagle, M.D.  
in favor of The First National Bank of Fort Worth for the sum of One hundred fifty nine thousand four hundred eighty eight (\$159,488.00) Dollars, dated the 27th day of September, 1978.
  - b. All past, present, and future advances, of whatever type, by Bank to Debtor, and extension and renewals thereof.
  - c. All existing and future liabilities, of whatever type, of Debtor to Bank, and including (but not limited to) liability for overdrafts and as indorser and surety.
  - d. All costs incurred by Bank to obtain, preserve and enforce this security interest, collect the obligation and maintain and preserve the collateral, and including (but not limited to) taxes, assessments, insurance premiums, repairs, reasonable attorneys' fees and legal expenses, rent, storage costs and expenses of sale.
  - e. Interest on the above amounts, as agreed between Bank and Debtor, or if no such agreement, at the maximum rate permitted by law.

D. COLLATERAL

1. The security interest is granted in the following collateral:  
  
Six (6) 4,750 cubic foot capacity 100 ton covered railroad hopper cars bearing the numbers PLMX 10373, PLMX 10445, PLMX 10446, PLMX 10375, PLMX 10449, PLMX 10450;

together with all rights of Debtor in and to any and all lease or rental agreements covering such equipment.

All substitutes and replacements for, accessions, attachments and other additions to the above property.

Together with all accounts receivable and contract rights relating to such cars.

E. AGREEMENTS OF DEBTOR:

1. Debtor will: take adequate care of collateral, insure the collateral for such hazards and in such amounts as Bank directs, policies to be satisfactory to Bank; pay all costs necessary to obtain, preserve and enforce this security interest, collect the obligation and preserve the collateral and including (but not limited to) taxes, assessments, insurance premiums, repairs, reasonable attorneys' fees and legal expenses; furnish Bank with any information on the collateral and the obligation; sign any papers furnished by Bank which are necessary to obtain and maintain this security interest; take necessary steps to preserve the liability of account debtors, obligors, and secondary parties whose obligations are part of the collateral; transfer possession of all instruments, documents and chattel paper which are part of the collateral to Bank immediately, or as to those hereafter acquired, immediately following acquisition; notify Bank of any change occurring in or to the collateral, or in any fact or circumstances warranted or represented by Debtor in this agreement or furnished to Bank, or if any event of default occurs.
2. Debtor will not (without Bank's consent): allow the collateral to become an accession to other goods; sell, lease, otherwise transfer, manufacture, process, assemble or furnish under contracts of service, the collateral.
3. Debtor warrants: No financing statement, mortgage or deed of trust has been filed with respect to the collateral, other than relating to this security interest; Debtor is absolute owner of the collateral, and it is not encumbered other than by this security interest; all account debtors and obligors, whose obligations are part of the collateral, are to the extent permitted by law prevented from asserting against Bank any claims or defenses they have against sellers.

F. RIGHTS OF BANK

Bank may, in its discretion, before or after default: require Debtor to give possession or control of the collateral to Bank; indorse as Debtor's agent any instruments or chattel paper in the collateral; notify account debtors and obligors on instruments to make payment direct to Bank; contact account debtors directly to verify information furnished by Debtor; take control of proceeds and use cash proceeds to reduce any part of the obligation; take any action Debtor is required to take or otherwise necessary to obtain, preserve, and enforce this security interest, and maintain and preserve the collateral, without notice to Debtor, and add costs of same to the obligation (but Bank is under no duty to take such action); release collateral in its possession to Debtor, temporarily or otherwise; require additional collateral; take control of funds generated by the collateral, such as lease payments and use same to reduce any part of the obligation; waive any of its rights hereunder without such waiver prohibiting the later exercise of the same or similar rights; revoke any permission or waiver previously granted to Debtor.

G. MISCELLANEOUS

The rights and privileges of Bank shall inure to its successors and assigns. All representations, warranties and agreements of Debtor are joint and several if Debtor is more than one and shall bind Debtor's personal representatives, heirs, successors and assigns. Definitions in the Uniform Commercial Code as adopted in the State of Texas apply to words and phrases in this agreement; if Code definitions conflict, Article 9 definitions apply. Debtor waives presentment, demand, notice of dishonor, protest and extension of time without notice as to any instruments and chattel paper in the collateral.

DEFAULT

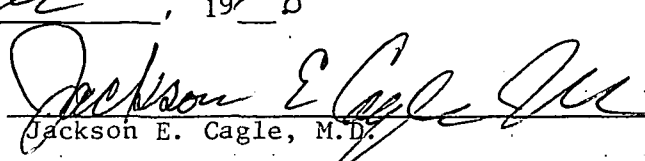
1. Any of the following is an event of default: failure of Debtor to pay any note in the obligation in accordance with its terms, or any other liability in the obligation on demand, or to perform any act or duty required by this agreement; falsity of any warranty or representation in this agreement when made; substantial change in any fact warranted or represented in this agreement; involvement of Debtor in bankruptcy proceedings; death, dissolution or other termination of Debtor's existence; merger or consolidation of Debtor with another; substantial loss, theft, destruction, sale, reduction in value, encumbrance of, damage to or change in the collateral; modification of any contract, the rights to which are part of the collateral; levy on, seizure or attachment of the collateral; judgement against Debtor; filing any financing statement or other lien claim with regard to the collateral, other than relating to this security interest; Bank's belief that the prospect of payment of any part of the obligation or the performance of any part of this agreement is impaired.
2. Upon the occurrence of any event or condition of default set forth above, the Bank shall have all the rights and remedies provided by the Uniform Commercial Code, including, but not limited to, the right to take possession of the collateral; the right to require the Debtor to assemble the collateral and make it available to Bank at a place designated by the Bank; the right to sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts, as a unit or in parcels and at any time and place and on any terms and in any manner which is commercially reasonable. Reasonable notification of the time and place of any public sale or reasonable notice of the time after which any private or other intended disposition is to be made shall be sent by the Bank to the Debtor, if it has not signed after default a statement renouncing or modifying its rights of notification of sale. The requirements of reasonable notification shall be met if such notice is mailed, postage prepaid, to the address of the Debtor as shown herein at least ten (10) days prior to the time of sale or disposition.

I. FIRST AND PRIOR LIEN

This security interest grants to Bank a first and prior lien to secure the payment of the obligations secured hereby and extensions and renewals thereof. If Bank disposes of the collateral following default, the proceeds of such disposition available to satisfy the indebtedness shall be applied first to the notes listed herein, and renewals and extensions thereof, in the order of execution, and thereafter to all remaining indebtedness secured hereby, in the order in which such remaining indebtedness was executed or contracted. For the purpose of this paragraph, an extended or renewed note will be considered executed on the date of the original note.

"INSURANCE ON THE COLLATERAL IS REQUIRED IN CONNECTION WITH THIS LOAN AND BORROWER SHALL HAVE THE OPTION OF FURNISHING THE REQUIRED INSURANCE EITHER THROUGH EXISTING POLICIES OF INSURANCE OWNED OR CONTROLLED BY HIM OR OF PROCURING AND FURNISHING EQUIVALENT INSURANCE COVERAGES THROUGH ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN TEXAS."

IN WITNESS WHEREOF the Debtor has hereunto set its hand this

27 day of September, 1978  
  
Jackson E. Cagle, M.D.

DEBTOR



Address of Debtor:

800 Fifth Avenue

Fort Worth, Texas 76104

THE FIRST NATIONAL BANK OF FORT WORTH

By

George M. Bradford  
George M. Bradford, Assistant Vice President  
Name and Title

THE STATE OF §

COUNTY OF §

On this the 28 day of September, 1978, before me personally appeared Jackson E. Cagle, Jr., to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

*Lee Ann Baker, Notary Public*  
Tarrant County, Texas

Lee Ann Baker  
Notary Public, Tarrant County,

My Commission Expires My Commission Expires December 6, 1978.

THE STATE OF TEXAS §

COUNTY OF §

On this 28 Day of September, 1978, before me personally appeared George M. Bradford, to me personally known, who being by me duly sworn, says that he is the Asst. Vice President of First National Bank, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Lee Ann Baker, Notary Public*  
Tarrant County, Texas

Lee Ann Baker  
Notary Public, Tarrant County, Texas

My Commission Expires My Commission Expires December 6, 1978.